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IS01164TC

PATENT
Case No. IS01164TC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

NICK J. GRIVAS, ET. AL.

Serial No.: 10/737,234

Examiner: PHUONG, DAI

Filed: DECEMBER 16, 2003

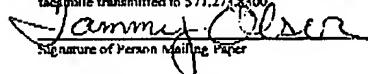
Group Art Unit: 2617

Title: METHOD OF ENABLING A
REMOTE COMMUNICATIONS
DEVICE WITH A TELEMATICS
FUNCTIONALITY MODULE

Conf. No.: 6348

Date of deposit: January 16, 2007

I hereby certify that this paper is being facsimile transmitted or deposited with the United States Postal Service on the date indicated above, as first-class mail, with sufficient postage attached thereto, in an envelope addressed to Mail Stop Non-Fee Assessment, Assistant Commissioner for Patents, Alexandria, VA 22313 or facsimile transmitted to 703.273.4300.



Tammy Olsen

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Printed Name of Person Mailing Paper

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22202-1450

Dear Sir:

This is Appellant's pre-appeal brief request for review.

JAN 16 2007

-- REMARKS --

A. Claims 1-9, 15, 16-21, and 26-34 were rejected under §102(e) as anticipated by Odinak. The §102(e) rejection of claims 1-9, 15, 16-21, and 26-34 is traversed.

In order to maintain this rejection, each and every element of the claims must be disclosed in as great detail as claimed. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

In essence, the Examiner respectfully appears to have Applicant's invention and Odinak's backwards. Odinak teaches, substantially, spoofing the MTN of a cellular phone to communicate with a cellular network – thus, the information transfer flows from the cellular phone to the telematics device embedded in the vehicle resulting in enabling the telematics unit with capability of the cellular telephone. In contrast, however, the instant claims require enabling the *remote* communications device with the telematics functionality module – thus the information flows from the telematics unit to the cellular phone and the cellular phone gains the capability of the telematics device.

The allegation that "simply connecting the remote communications device with the telematics device results in enabling the remote communications device with the telematics functionality module" is respectfully misplaced, and at a minimum, Odinak does not disclose this claim limitation in as great detail as claimed. Odinak may well disclose enabling the embedded device with functionality of the cellular telephone, but that is not claimed here. Simply communicating over the cradle is *not the same* as disclosing "enabling the remote communications device with the telematics functionality module" and therefore the Examiner's anticipation rejection is respectfully in error.

Additional support for Appellant's arguments are detailed in the response filed August 18, 2006 and will not be replicated here for the sake of brevity. However, each argument is reasserted as if presented here.

IS01164TC

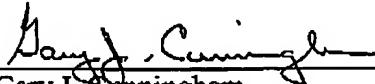
SUMMARY

The Examiner's rejections of claims 1-39 have been obviated by remarks herein supporting an allowance of pending claims 1-39 over the prior art. Appellant respectfully submits that claims 1-39 herein satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. In view of the foregoing, favorable consideration and passage to issue of the present application is respectfully requested. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Dated: January 16, 2007

Respectfully submitted,
NICK J. GRIVAS, ET. AL.

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